United Nations S/2000/916

Security Council

Distr.: General
28 September 2000
English
Original: French

Letter dated 25 September 2000 from the Permanent Representative of France to the United Nations addressed to the Secretary-General

I have the honour to bring to your attention a statement issued on 8 September 2000 by the Presidency of the European Union on behalf of the European Union concerning recent developments in Somalia (see annex).

I should be grateful if you would have the text of this letter and its annex circulated as a Security Council document.

(*Signed*) Jean-David **Levitte**
Permanent Representative of France to the United Nations

00-66369 (E) 290900 290900

Annex to the letter dated 25 September 2000 from the Permanent Representative of France to the United Nations addressed to the Secretary-General

[Original: English and French]

Statement by the Presidency of the European Union on behalf of the European Union on recent developments in Somalia

The European Union hopes that the election of Mr. Abdulkassim Salata Hassan as President of Somalia by the National Transitional Assembly meeting in Arta will contribute to the restoration of the State, to the preservation of national unity and to the territorial integrity of the country, as longed for by the Somali people and desired by the international community. The Union wishes the elected President every success.

The European Union is willing to enter into dialogue with the new Somali authorities and, once they have established their authority, to support their efforts to rebuild the country, while continuing to give its backing to recovery measures in all areas of Somalia where stable conditions exist.

The European Union calls on the authorities of Somaliland and Puntland to establish constructive relations with the institutions which have emerged from the Arta process. It also urges the future transitional government to establish a constructive dialogue as soon as possible with the aforementioned authorities for the purpose of re-establishing national unity in peace and with respect for the elements of stability achieved.

It invites the heads of the armed movements which remain on the margins of the peace process to associate themselves with that process.

The European Union hopes that the new Somali authorities will establish close relations of friendship and cooperation with all the countries in the region.

The Central and Eastern European countries associated with the European Union, the associated countries Cyprus, Malta and Turkey, and the European Free Trade Association countries, members of the European Economic Area align themselves with the present statement.

United Nations S/2000/917

Security Council

Distr.: General
28 September 2000
English
Original: French

Letter dated 25 September 2000 from the Permanent Representative of France to the United Nations addressed to the Secretary-General

I have the honour to bring to your attention a statement issued on 22 September 2000 by the Presidency of the European Union on behalf of the European Union concerning the implementation of the Lusaka Agreement (see annex).

I should be grateful if you would have the text of this letter and its annex circulated as a Security Council document.

(*Signed*) Jean-David **Levitte**
Permanent Representative of France
to the United Nations

00-66375 (E) 290900 290900

Annex to the letter dated 25 September 2000 from the Permanent Representative of France to the United Nations addressed to the Secretary-General

[Original: English and French]

Statement by the Presidency of the European Union on behalf of the European Union on the implementation of the Lusaka Agreement

The European Union,

referring to the Lusaka Agreement of 1 September 1999, its common position of 8 November 1999 and its statements of 16 July 1999, 30 November 1999, 9 June 2000 and 21 August 2000, the relevant Security Council resolutions, and particularly resolution 1304 (2000), and to the statement by the Chairman of the Security Council of 5 September 2000,

and reacting to the statements made by the Congolese authorities on 23 August 2000 in Kinshasa before the diplomatic corps and the proposals made by the President of the Democratic Republic of the Congo in a letter recently addressed to the Secretary-General of the United Nations and the Member States of the European Union:

- Reaffirms its attachment to the Lusaka Agreement, the only consensual reference point currently serving as a basis for a negotiated solution to the conflict and the action of the international community, and particularly that of the United Nations and the Organization of African Unity, in favour of a return to peace in the Democratic Republic of the Congo and the region;

- Alarmed at proposals to suspend application of that Agreement and the likelihood that such an initiative would involve a general resumption of hostilities and consequently, of jeopardizing the United Nations peacekeeping operation;

- Urges the parties to the Lusaka Agreement to agree on ways of giving fresh impetus to the peace process;

- Recalls that a return to peace in the Democratic Republic of the Congo and the Great Lakes region is conditional upon respect for the rules of international law, consolidation of the ceasefire and a negotiated settlement of the problems of security, protection of the population and of human rights and the restoration of democracy;

- Recalls the devastating effect of the war on the population and urges all parties to facilitate the movement and the work of humanitarian personnel and organizations;

- Appeals to the Government of the Democratic Republic of the Congo and to the other signatories to the Lusaka Agreement, in order to preserve the peace process begun in Lusaka and to render the Agreement operational once again, to restore a minimum of mutual confidence by respecting the ceasefire, implementing the withdrawal provided for by the Kampala agreement and the tripartite agreement (Uganda, Rwanda, United Nations) concerning the town of

Kisangani, and by confirming and applying urgently the guarantees for security and free movement approved by them and confirmed verbally by the Kinshasa Government on the occasion of Mr. Abubakar's mission but still not effective, though essential to the deployment of the United Nations Organization Mission in the Democratic Republic of the Congo (MONUC);

– Also calls upon the Governments of Uganda and Rwanda, as well as the other signatory States, to put into practice, without delay, United Nations Security Council resolution 1304 (2000) and to implement their proposals for redeploying their troops in the Democratic Republic of the Congo;

– Considers that a return to peace can be assisted by direct negotiations, provided that the terms of the Lusaka Agreement, the relevant United Nations Security Council resolutions and the interests of all the parties to the conflict are taken into consideration and that such negotiations aim to restore the authority of the Congolese State throughout its territory;

– Reaffirms its strong support for inter-Congolese political dialogue and, in accordance with the spirit and the letter of the Lusaka Agreement, appeals to the Congolese Government also to take the necessary measures without further delay, to ensure, in particular, that individuals are free to become involved in political activities, and that a political dialogue is initiated among the Congolese, a prerequisite for the establishment of the rule of law and civil peace in the Democratic Republic of the Congo. It also urges the other Congolese parties to work in a constructive manner so as to facilitate this dialogue.

The Central and Eastern European countries associated with the European Union, the associated countries Cyprus, Malta and Turkey, and the European Free Trade Association countries, members of the European Economic Area align themselves with the present statement.

United Nations S/2000/918

Security Council

Distr.: General
28 September 2000
English
Original: Arabic

Letter dated 27 September 2000 from the Permanent Representative of Kuwait to the United Nations addressed to the President of the Security Council

On instructions from my Government and further to my previous letters to you concerning incessant Iraqi threats against Kuwait, I have the honour to bring to your attention the serious threats that were directed against Kuwait and the mendacious allegations made in its regard by the President of the Iraqi regime as he presided over the thirty-eighth session of the Iraqi Council of Ministers on 25 September 2000. Kuwait emphasizes the gravity of such statements, and it calls attention to the danger they pose to its security and stability and to those of the countries of the region and notes the climate of tension and instability they create. This is particularly so since they emanate on a recurring basis from the highest leadership levels in Iraq.

As it highlights the statements recently made by the President of the Iraqi regime, Kuwait stresses one proven fact. This is that the Iraqi regime cannot be trusted or relied upon, given that it lacks any sense of guilt for the wanton aggression it committed against Kuwait's sovereignty on 2 August 1990. Moreover, assuming a position of strength and arrogance, it is still intent on justifying that aggression with flimsy excuses believed by no one. This conveys the true character of Iraq's intentions against Kuwait and the countries of the region, intentions that are other than peaceful and are of a hostile character.

The Government of Kuwait would like to make it clear to you that, at a time when Kuwait is giving constant expression, in both word and deed, to its empathy with the suffering of the Iraqi people, the Iraqi regime is most deplorably inciting the feelings of Iraqi citizens against the Government and people of Kuwait in a manifest attempt to invert the facts, evade responsibility for the aggression it committed against Kuwait in 1990 and sow hatred and enmity among people in the region. This is a most dangerous matter for the region's future and for its security.

We deny in the strongest terms the recurring Iraqi accusations against Kuwait, and we urge the Secretary-General of the United Nations and the President of the Security Council to address, vigorously and in an expeditious manner, the threats being made by the President of the Iraqi regime against Kuwait and the countries of the region. We further call upon the Security Council to take the necessary measures to secure Iraq's compliance with the relevant Security Council resolutions, and especially resolutions 687 (1991) and 949 (1994). In the latter resolution, the Council,

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"...

"*Determined* to prevent Iraq from resorting to threats and intimidation of its neighbours and the United Nations,

"...

"*Demands* that Iraq not again utilize its military or any other forces in a hostile or provocative manner to threaten ... its neighbours ... ;

"..."

I should be grateful if you would have this letter circulated as a document of the Security Council.

(*Signed*) Mohammad A. **Abulhasan**
Permanent Representative

United Nations S/2000/919

Security Council

Distr.: General
28 September 2000

Original: English

Letter dated 27 September 2000 from the Permanent Representative of the Sudan to the United Nations addressed to the President of the Security Council

1. I have the honour to attach herewith the article published in the *Washington Post* of 27 September 2000, entitled "Review of Sudan attack sought" (see annex).

2. The article stated that Representative Dana Rohrabacher introduced legislation this week asking the court of claims to review the Clinton Administration's 1998 bombing of Al-Shifa Pharmaceutical Plant and to determine whether Congress should award the factory owner $50 million in compensation.

3. The article quoted Representative Rohrabacher, who stated that "the attack appears not to have been justified. I believe that we, the Congress, must face up to the question of whether or not the owner of the factory, Mr. Salah Idris, and his pharmaceutical company are entitled to be compensated".

4. The paper quoted attorney Stephen J. Brogan who stated that "No body believes that this was a chemical weapons plant. The Government made a classical blunder — and under these circumstances it should do the right thing. Otherwise, it will get litigated forever".

I should be grateful if you would have the present letter and its annex circulated as a document of the Security Council.

(*Signed*) Elfatih **Erwa**
Permanent Representative

00-66392 (E) 290900

Annex to the letter dated 27 September 2000 from the Permanent Representative of the Sudan to the United Nations addressed to the President of the Security Council

News article published in the *Washington Post* of 27 September 2000

Review of Sudan attack sought

THE WASHINGTON POST
Wednesday, September 27, 2000
By Vernon Loeb

Rep. Dana Rohrabacher (R-Calif.) introduced legislation this week asking the U.S. Court of Claims to review the Clinton administration's 1998 bombing of a pharmaceutical plant in Sudan and to determine whether Congress should award the plant's owner $50 million in compensation.

While administration critics on Capitol Hill have previously questioned the attack, Rohrabacher's legislation represents the first call for reparations and could bolster a move by the plant's owner, Saudi businessman Salah Idris, to obtain compensation through his own lawsuit in the Court of Claims, filed in July.

"The attack appears not to have been justified," Rohrabacher said yesterday in an interview. "If it was a mistake, I believe that we, the Congress, must face up to the question of whether or not the owners of the plant, Mr. Salah Idris and his pharmaceutical company, are entitled to be compensated."

CIA Director George J. Tenet and other senior administration officials continue to defend the Aug. 20, 1998, airstrike on the grounds that the El Shifa pharmaceutical plant in Khartoum, Sudan's capital, had at least a tangential connection to chemical weapons activity.

President Clinton ordered the missile strike in retaliation for exiled Saudi millionaire Osama bin Laden's alleged masterminding of the terrorist bombing of two U.S. embassies in East Africa on Aug. 7, 1998, which killed more than 200 people, including 12 Americans.

But administration officials concede they spoke in error immediately after the missile strike when they claimed that a nerve gas precursor had been manufactured at El Shifa and said that bin Laden had a direct financial stake in the plant.

Since then, they have conceded that the plant was, in fact, manufacturing pharmaceuticals at the time it was destroyed. They have also said publicly

that they do not consider Idris a terrorist or believe that he has any links to bin Laden.

P.J. Crowley, a spokesman for the National Security Council, said he could not comment on the issue of compensation, because of Idris's pending lawsuit. But he insisted that the attack against El Shifa was justified on national security grounds. "We stand by the actions that were taken," he said.

To ensure that an independent body considers the question of compensation, Rohrabacher introduced a resolution triggering an established procedure in which the Court of Claims would review Idris's case against the government and report back to the House within 18 months. For passage, the resolution requires approval only by the House.

If the court found that the attack was in error and recommended compensation, both houses of Congress could adopt its findings and pass legislation making a monetary award to Idris. Rohrabacher also introduced a companion bill to his resolution calling for the U.S. government to pay Idris $50 million.

Idris filed suit in the Court of Claims in July, saying that $50 million would be necessary to rebuild the plant, which was reduced to rubble by 13 U.S. cruise missiles. But his attorneys concede that Idris could face difficulty overcoming claims by Justice Department lawyers that the government is immune from damages arising from what are essentially foreign acts of war.

If passed, Rohrabacher's resolution would offer Idris some protection against that defense by ensuring a review of the facts of the case by the Court of Claims, Idris's attorneys believe.

"We would like some way to have an examination of the facts," said Idris's lead attorney, Stephen J. Brogan, a partner at Jones, Day, Reavis & Pogue. "Nobody believes this was a chemical weapons plant. The government made a classical blunder--and under these circumstances, it should do the right thing. Otherwise, it will get litigated forever."

United Nations S/2000/920

Security Council

Distr.: General
29 September 2000

Original: English

Report of the Secretary-General on developments in Guinea-Bissau and on the activities of the United Nations Peace-building Support Office in that country

I. Introduction

1. The present report is submitted pursuant to paragraph 14 of Security Council resolution 1233 (1999) of 6 April 1999, by which the Council requested me to keep it regularly informed and to submit a report to it every 90 days on developments in Guinea-Bissau and on the activities of the United Nations Peace-building Support Office in Guinea-Bissau (UNOGBIS).

2. Members of the Council will recall that, since my last report of 28 June 2000 (S/2000/632), Assistant-Secretary-General for Political Affairs, Danilo Türk, briefed the Council, on 2 August, at the Council's request, on the situation along the Guinea-Bissau/Senegal border, during which he highlighted the efforts of the leaders of both countries to ensure security along their common borders.

3. The present report covers developments in Guinea-Bissau since my last report and Mr. Türk's briefing. It focuses on the efforts of the Government to continue to consolidate the democratic gains achieved and to stabilize the situation on the border with Senegal. The report also highlights the UNOGBIS facilitation role towards the attainment of those ends.

II. Political developments

4. I am pleased to inform the Council that, despite some serious internal challenges, Guinea-Bissau's fledgling democratic institutions seemed to survive during the reporting period. When President Yala, in early September, dismissed five ministers belonging to the rival Guinea-Bissau Resistance Party (RGB) from the coalition Government, the RGB and the President's Party of Social Renewal (PRS) engaged in a peaceful dialogue and were able to negotiate a solution that averted the collapse of the nine-month-old Government. Subsequently, the dismissed cabinet officials were reinstated. My Representative, Mr. Samuel Nana-Sinkam, played a facilitation role in this matter.

5. Another positive development has been the normal functioning of the National Assembly. It has successfully debated and approved the Government's four-year economic development programme and the budget for the year 2000. The

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Assembly's Commission of Good Offices is pursuing its search for ways to bridge the differences between the Government and the military, while another military parliamentary commission continues to monitor developments on the border with Senegal.

6. The National Assembly, in collaboration with UNOGBIS, conducted, in June, a five-day seminar on democratic ethics and parliamentary protocols and procedures for post-conflict parliamentarians. Experts from Brazil, Portugal and Mali helped conduct the seminar, which focused, among other issues, on the principles of separation of powers and interaction between State organs and other branches of government. Participating parliamentarians stated that the Seminar had provided a valuable educational opportunity and helped delineate other areas where the international community could offer assistance and expertise in order to make the legislature operate more effectively.

7. To complete the country's post-conflict democratic transition, the authorities have announced plans to hold municipal elections in the course of the current year. In response to the Government's request, the United Nations would provide technical assistance for the elections. Meanwhile, the commission set up by the Supreme Court of Justice to review the current constitution with a view to bringing it in line with the new democratic realities and international norms, has begun its work.

III. Military and security aspects

8. Despite this generally positive background, internal friction as well as tensions along the Guinea-Bissau/Senegal border continue to be cause for concern. The frictions in the border area, resulting from reported military activities in the Senegalese province of Casamance, cross-border banditry and the uncontrolled circulation of weapons in civilian hands, have raised security concerns and dampened inter-State relations. Moreover, communities on both sides of the border have at times spontaneously closed their borders and detained each other's nationals.

9. The temporary closure of border crossings on the Senegalese side led to steep price increases in Guinea-Bissau for fuel and other imports, threatening social unrest at a time when the country's fragile economy continues to struggle even to cover public sector salaries. At the same time, segments of the military have been trying to capitalize on the border instability to increase their visibility in the political process, especially in policy-making on security issues.

10. The leaders of Guinea-Bissau and Senegal, including Presidents Kumba Yala and Wade have continued to work to defuse these tensions. In an encouraging confidence-building move, the chiefs of staff of the armed forces of Guinea-Bissau and Senegal met in Bissau to discuss ways to increase security along the border. In August, a bilateral commission comprising the Interior Ministers of both countries, the Prefect of the Senegalese province of Kolda and the Governor of Guinea-Bissau's province of Bafata as well as representatives of the communities on both sides of the border, met on the Senegalese side to discuss border issues. On 7 September, the Prime Ministers of both countries met in Dakar and signed a document which, inter alia, called on the international community, through the United Nations, to institute mechanisms to complement their joint military patrolling of the border. Following that meeting, the borders were reopened.

11. In a related development, on 5 September, President Yala wrote to me, formally requesting that an international military observer force be established to serve along with contingents from the two countries. I shall revert to the Council on this matter following consultations with all parties concerned.

12. On the internal front, the continued institutional weakness of Guinea-Bissau's national police, including its chronic lack of adequate logistical support, has hampered its ability to deal effectively with the rising incidence of banditry. Meanwhile, a civilian disarmament programme elaborated by UNOGBIS and other members of the United Nations country team to help the Government curb banditry is awaiting international funding, as is the Government's demining programme. In July, a non-governmental organization mine clearance operation led by HUMAID and funded by the United Kingdom of Great Britain and Northern Ireland removed over 150 landmines in the capital, Bissau. Recently, the Government of Germany, through UNOGBIS facilitation, provided HUMAID with US$ 150,000 to support additional demining activities.

13. With respect to the demobilization and reintegration of former combatants, the World Bank is providing technical and financial assistance for a Government programme under which about 10,000 soldiers would be demobilized and an additional 16,000 former combatants and veterans would be prepared for reintegration. A pilot demobilization project is expected to commence in January 2001. In the meantime, the Government, in cooperation with UNOGBIS and the World Food Programme (WFP), is providing some 700 soldiers, who have volunteered for demobilization, with daily rations until the formal programme begins.

IV. Human rights situation

14. Out of the 378 political and military prisoners detained since the events of 7 May 1999, only four are still being held. A number of the released detainees have already been formally tried, while others are still awaiting trial. To speed up trial proceedings, UNOGBIS, which has been monitoring the trials, has facilitated the training of new justices and other judicial personnel, some of whom have already been deployed. However, the lack of logistical and financial resources continues to hinder the efficiency of the judicial system.

15. UNOGBIS has continued, in cooperation with the Government, to promote awareness of and respect for human rights in various national institutions. In this connection, UNOGBIS is assisting the Ministry of Internal Administration in setting up human rights training and sensitization programmes for military and police officers and is also collaborating with the Ministries of Justice and Education to integrate human rights issues into secondary school curricula.

V. Economic and social aspects

16. Economic conditions in the country remain difficult. State revenues are disturbingly limited, the level of underemployment and unemployment extremely high and poverty rampant. The Government continues to experience difficulties in meeting the most immediate needs of the population. The responsibility of paying

salaries to almost 26,000 members of the military establishment continues to pose an especially worrisome burden, not only because of the Government's difficult financial situation but also because of high concerns over security, were the salaries not paid.

17. In preparation for the Round Table Conference scheduled to be convened in February 2001, the Government has continued, with the assistance of the United Nations Development Programme (UNDP), to formulate its National Programme of Governance. It has also finalized, with the support of United Nations agencies on the ground, an interim poverty reduction strategic paper to be submitted to the World Bank. Meanwhile, the World Bank has made available about US$ 25 million as a post-conflict credit to allow the Government, in particular, to meet its budgetary obligations, including reducing its internal debt, as well as paying public sector salaries.

18. Health, education and agriculture remain among the Government's priorities. In a positive development, there have been improvements in the productive sector, especially in agriculture, with a striking increase in the harvest of cashew nuts, the country's most important cash crop and its principal source of revenue. In addition, the agreement reached in Dakar in August between Presidents Yala and Wade to increase Guinea-Bissau's percentage of the proceeds from off-shore oil drilling along the border from 15 to 20 per cent could also boost the country's revenue base, especially once large-scale commercial exploitation of the oil fields begins.

19. Given that there is no university or other higher level post-secondary educational institution in the country, a major challenge is to provide young people, who constitute nearly two thirds of the population, with skills and other training opportunities. In this regard, the United Nations Educational, Scientific and Cultural Organization (UNESCO), with the support of UNOGBIS, has begun supporting a vocational training centre in Bissau, run by civil society organizations.

VI. Observations

20. Guinea-Bissau has continued to make important progress towards consolidating its democratization process. However, the overall situation in the country remains worrying. The ever-present threat of military intervention, the precarious border situation and the country's chronic poverty make the road ahead difficult. The challenges are formidable, and the new civilian Government has neither the means nor the capacity to address them on its own.

21. Despite repeated public statements, the former military junta still seems reluctant to give up the role it played during the transitional period and at times appears to question decisions taken by the democratically elected government. I call once again on members of the former military junta to translate into reality their repeated promises not to interfere in the political process.

22. As regards border security, I wish to commend the untiring efforts of Presidents Yala and Wade to de-escalate tensions along the border between their countries. I hope that the various mechanisms that are in place will reduce the deleterious effects these tensions have had on the prospects for peace, stability and prosperity for Guinea-Bissau and the other countries of the subregion.

23. It is clear that only the people of Guinea-Bissau themselves can reconstruct their country and restore full peace and normalcy. Their resilience and determination to consolidate their post-conflict gains are commendable. However, to meet the daunting challenges outlined in the present report, they need the continued assistance of the international community. I therefore appeal to the international community to assist Guinea-Bissau generously without waiting for the next Round Table Conference, expected to be convened in February 2001.

24. For its part, the United Nations will continue to provide whatever assistance it can to support the Government's national reconciliation and reconstruction programmes. I am grateful to those Member States that have already made contributions to the UNOGBIS Trust Fund and appeal for their continued support to enable UNOGBIS to carry out its mandate.

25. Finally, I should like to pay tribute to my Representative, Mr. Samuel Nana-Sinkam, to the staff of UNOGBIS and to the whole United Nations country team for their commendable contributions in support of the Government's peace-building and reconstruction efforts.

United Nations A/55/432–S/2000/921

General Assembly
Security Council

Distr.: General
29 September 2000

Original: English

General Assembly
Fifty-fifth session
Agenda items 36, 40, 41 and 85

Security Council
Fifty-fifth year

Bethlehem 2000

The situation in the Middle East

Question of Palestine

Report of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and Other Arabs of the Occupied Territories

Letter dated 29 September 2000 from the Permanent Observer of Palestine to the United Nations addressed to the Secretary-General

Yesterday, 28 September 2000, a member of the Israeli parliament and the leader of the Likud Party, Mr. Ariel Sharon, led a group in a dangerous and provocative visit to Al-Haram Al-Sharif in Occupied East Jerusalem. The purpose of this visit, according to Mr. Sharon, was to emphasize illegal Israeli sovereignty over the place. Hundreds of members of the Israeli security forces accompanied Mr. Sharon, which further aggravated tensions, leading to clashes between Palestinian civilians and Israeli security forces, both in Al-Haram Al-Sharif and the rest of East Jerusalem.

Today, 29 September 2000, and following Friday worship, Israeli security forces stormed Al-Haram Al-Sharif using rubber bullets and live ammunition against the worshippers, killing five Palestinian civilians and injuring about 200 others. An Israeli police chief admitted that snipers were also deployed and that they fired live rounds, making the death of civilians the result of wilful killing. Clashes and further Israeli repression against Palestinian civilians later spread to other places including the rest of East Jerusalem, Bethlehem, Ramallah and Gaza.

The actions today of the Israeli security forces are starkly reminiscent of those committed on 8 October 1990, when those forces stormed Al-Haram Al-Sharif, killing 20 civilians and injuring more than 150. At the time, the Security Council, in its resolution 672 (1990) of 12 October 1990, condemned the acts of violence by the Israeli security forces and called upon "Israel, the occupying Power, to abide scrupulously by its legal obligations and responsibilities under the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12

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August 1949, which is applicable to all the territories occupied by Israel since 1967".

The international community, and particularly the Security Council, must reiterate such a position and compel the occupying Power to respect its obligations. The need for the cessation of such appalling actions is even greater at this sensitive time, given their detrimental effect on the Middle East peace process and the efforts to achieve a final settlement between the two sides. At this point, ensuring the withdrawal of Israeli forces from Al-Haram Al-Sharif and the rest of East Jerusalem and from the vicinity of other Palestinian cities is a necessary first step for salvaging the situation.

I would be grateful if you would arrange to have the text of the present letter distributed as a document of the fifty-fifth session of the General Assembly, under agenda items 36, 40, 41 and 85, and of the Security Council.

(*Signed*) Dr. Nasser **Al-Kidwa**
Ambassador
Permanent Observer of Palestine to the United Nations

United Nations S/2000/922

Security Council

Distr.: General
29 September 2000

Original: English

Letter dated 29 September 2000 from the Permanent Representative of Indonesia to the United Nations addressed to the President of the Security Council

Upon instructions of my Government, I have the honour to request that the attached paper entitled "Indonesia's constructive response to Security Council resolution 1319 (2000) on the question of East Timorese refugees in West Timor" be circulated as a document of the Security Council.

(*Signed*) Makarim **Wibisono**
Ambassador
Permanent Representative

00-66608 (E) 021000

Annex to the letter dated 29 September 2000 from the Permanent Representative of Indonesia to the United Nations addressed to the President of the Security Council

INDONESIA'S CONSTRUCTIVE RESPONSE TO SECURITY COUNCIL RESOLUTION 1319 (2000) ON THE QUESTION OF EAST TIMORESE REFUGEES IN WEST TIMOR

I. INTRODUCTION

1. The Atambua incident of 6 September 2000 brought to the fore the sobering real that one year since the separation of East Timor from Indonesia, "residual issues" common interest and concern continue abound, in this instance the question of E Timorese refugees in West Timor. Indonesia has consistently recognized the ne to manage such issues, as provided for in Articles 5 and 6 of the People's Consultati Assembly (MPR) Decision no. V/MPR/1999 and in the letter of the President of t Republic of Indonesia to the Secretary-General of the United Nations dated October 1999 on the arrangement for the transfer of authority.

2. Beyond constitutional and legal requirements, by virtue of geography, recent shar political and economic experience as well as existing societal links, Indonesia is ve much aware of how developments in East Timor affect West Timor and *vice vers* In this connection, it has been the central overriding policy of the Government Indonesia to ensure that this reality be positively harnessed by establishing environment conducive for East Timor in its transition towards independence. T ground breaking visit by President Abdurrahman Wahid of the Republic of Indones to Dili is consistent with this spirit, as well as the flourishing process of consultatio which Indonesian authorities have established with East Timorese leaders.

3. Nor could one be oblivious to the important strides which the Indonesia-UNTAI negotiations have made over the past year. A myriad of issues have been discusse Most would not seize international attention, yet all have real practical benefits f ordinary East Timorese. We should not also lose sight of the fact that over the pa year, some 155,000 East Timorese refugees in West Timor have safely returned East Timor. This would not have been possible without the close cooperation t Government of Indonesia provided to the UNHCR and other related internatio agencies, including the maintenance of the necessary security condition throu cooperation between TNI and UNPKF.

4. Without in any way devaluing our collective sense of outrage at the Atambua incide the Government of Indonesia should like to enjoin the United Nations to appreci this wider perspective in responding to the said incident. Above all, we should n allow the perpetrators of the tragic Atambua incident to derail the positive progr we have made over the past year. Instead, Indonesia and the United Nations shou

reaffirm their commitment to resolve all the residual issues within a cooperative framework, involving the people of East Timor of all persuasions and relevant international organizations and agencies. It is within such overarching perspective that Indonesia should like to approach the Atambua incident.

II. THE ATAMBUA INCIDENT

5. The Indonesian police (Polri) is presently conducting a thorough investigation of the Atambua incident, involving not only the attack against the UNHCR Atambua office but also the acts of violence directed against the local population as well as the murder of an East Timorese refugee, Olivio Mendoza Moruk.

6. The incident appeared to have been sparked by the murder of Olivio Mendoza Moruk on 5 September 2000 as a result of fighting involving locals at the Umarlortoos Village, Malaka Barat Sub-District. In an apparent response, on Wednesday, 6 September 2000, at approximately 8 AM some 3000 refugees from the Besikama and Betun camps made their way to the premises of the House of Representatives of the District of Belu (DPRD) carrying the body of Olivio Mendoza Moruk. On their way to DPRD, some members of the crowd separated themselves and went to the UNHCR Atambua office. The UNHCR Atambua office was attacked.

7. As a result, three UNHCR international personnel were killed. Police officials on duty at the time of the incident have asked all UNHCR personnel to vacate the UNHCR office under Polri protection. Of the 13 UNHCR personnel, 10 complied to this request and were escorted to safety. Three insisted to remain in the UNHCR premise and were unable to be saved. It is also essential to underline that the incident on 6 September 2000 took the lives of six locals. Meanwhile material damage are still being assessed.

8. In this regard Indonesia notes with deep regret that Security Council resolution 1319 (2000) contains a glaring factual inaccuracy with respect to the incident which was supposedly to have taken place on 7 September 2000 at Betun in which a number of refugees are killed. Indonesia finds such workmanship by the Council in drafting the resolution to be irresponsible and lacking in the most basic standard of professionalism.

9. The Indonesian Government cooperated closely with the UNHCR and UNTAET in evacuating and relocating international and national humanitarian personnel from Atambua to Dili and from Kupang to Denpasar. Indonesian nationals who were evacuated from Atambua to Dili have subsequently returned to Indonesia.

III. STEPS TAKEN TO OVERCOME THE ATAMBUA INCIDENT

10. In response to the Atambua incident and cognizant of Security Council resolution 1319 (2000), the Government of Indonesia has taken a number of immediate and medium term steps, directed towards three main issues, namely:

- investigation of the incident;
- disarming of the so-called militia; and
- comprehensive and lasting solution to the question of the East Timorese refugees in West Timor.

11. Primary among these are steps to restore law and order in the affected area in West Timor. The events of 6 September 2000 vividly illustrate the validity of the Indonesian Government's lamentation of the wide-ranging political, economic and social impacts of the prolonged presence of the East Timorese refugees on West Timor, hence Indonesia's overriding interest in seeing a comprehensive resolution of the issue. The Indonesian province of Nusa Tenggara Timur, of which West Timor is part, is among the least endowed of Indonesia's 27 provinces. Yet, over the past year it has provided refuge for, at its peak, approximately 285.000 East Timorese refugees. As an added challenge, virtually overnight West Timor became host to international agencies, inter-governmental as well as non-governmental, thereby further taxing its already stretched resources.

12. Within such perspective , Indonesia needs hardly be reminded by the Security Council through its resolution 1319 (2000) to take steps to restore law and order in the affected area in West Timor. No less than six of the fatalities as a result of the Atambua incident involve locals. As a result of the rapid and firm response by the Government of Indonesia condition of normalcy has been restored. Such response include:

a. the additional deployment of two TNI battalions and one Police battalion. One platoon of the aforementioned police battalion will be helping to investigate the incident while another platoon will undertake negotiations with all concerned parties;
b. cooperation with local community, refugees and religious leaders in appealing to the public for calm;
c. the evacuation of international and national humanitarian personnel both to East Timor and Denpasar;
d. the protection of public buildings and offices of the UN and international agencies; and

e. the maintenance of order at the other refugee camps.

Specifically on the deployment of additional TNI and Police battalions, on the very morning of 6 September 2000, before information about the eruption of the violence in Atambua became known, the Government of Indonesia had in fact formally decided to deploy additional one TNI battalion to West Timor as part of efforts to enhance security in the border area.

13. With respect to the disarming and disbanding of the so-called militia, it is important to recall that the latter have disbanded themselves in December 1999 and that Indonesian authorities have confiscated 817 firearms made up of 214 standard weapons, 603 home assembled weapons, 19.926 ammunitions and 66 grenades. The Police shall continue and indeed enhance such operations and shall work to prevent the regrouping of the former "militia" group. The recent reinforcement of TNI forces and Police to West Timor is expected to further facilitate this effort.

14. Specifically, the relevant authorities have, as a first step, set a certain period of time within which the "militia" should voluntarily hand over their weapons. Beyond this period, the authorities would take enforcement steps to confiscate the weapons. Indonesia is aware of the potential for disturbances and violence. Therefore, on 14 and 15 September 2000 in Denpasar, high ranking Indonesian authorities have held constructive discussions with representatives of *Uni Timor Aswain* (UNTAS), the umbrella organization of pro-integration East Timorese, and other refugee leaders to address these issues. At the aforesaid meetings, UNTAS reaffirmed its previously announced condemnation of the violence in Atambua and pledged their cooperation in assisting in the handing over of weapons and in the investigation process. As a result of the talks in Denpasar, the voluntary hand over of the weapons by the individuals concerned is planned to take place over the next few days in Kupang.

15. A central element of the effort to overcome the Atambua incident is to bring the perpetrators to justice. In this connection, Polri has questioned 20 individuals suspected of involvement in the attack against the UNHCR Atambua office. One other person identified with respect to the murder of Olivio Mendoza Moruk has been detained. The additional deployment of TNI and Polri, including the Polri investigators, are expected to facilitate further the investigation process over the Atambua incident. In conducting this process, however, the authorities must also proceed with a fair degree of prudence in order to avoid provoking unnecessary new public mass disturbances. The result of these investigations are expected in the near future.

16. In the aftermath of the Atambua incident, the Government of Indonesia is tasked to urgently fill the void created by the departure of the UNHCR and other relevant international humanitarian agencies in order to ensure continued emergency humanitarian relief to East Timorese refugees. Unless appropriately addressed, this could become another source of tensions and instability. As an immediate emergency response, Indonesia has sent 100 tonnes of rice for the East Timorese refugees.

17. Indonesia is also cognizant of the exhortation by the Security Council in resolution 1319 (2000) to prevent cross-border incursions into East Timor. Indonesia is in full agreement that, indeed, cross-border incursions, are a matter of serious concern. However, there should be recognition that this is not an exclusively UNTAET concern since cross border incursions have also been detected from East Timor to West Timor. The Government of Indonesia, as a matter of choice, has chosen to pursue such matters directly with UNTAET, primarily between the Udayana Area Commander and the UNPKF Force Commander, and when necessary, through diplomatic channels. To illustrate, Indonesia formally recently submitted its concern over the violation of its territory by some 50 armed East Timorese at the Tahon sub-village, Village of Makir, West Timor, on 2 September 2000. From the outset Indonesia has been imbued with the determination to approach the subject within a cooperative framework and to refrain from self-serving recriminations and accusations. Indonesia's approach is symbolized by its proposal last March for a joint patrol, joint border posts and exchange of military liaison officers between the UNPKF and TNI, which were unfortunately turned down by UNTAET. By its very nature, border security is a matter of joint responsibility.

18. Indonesia, therefore, is particularly pleased that agreement on the establishment of a Joint Border Committee has been reached with UNTAET on 14 September 2000. This shall provide a mechanism and institutionalized processes to address border related issues, including border security as referred to in Security Council 1319 (2000).

19. In view of the constructive responses the Indonesian Government has taken to address issues of concern contained in Security Council resolution 1319 (2000), it does not see any need for a Security Council mission. From the outset and even before the notion of such Security Council mission was broached in public, the President of the Republic of Indonesia has instructed on 11 September 2000 that there should be a line of communication between the Government and the Secretary-General of the United Nations on issues relating to the Atambua incident. As an expression of goodwill, the decision to send a Special Envoy is to directly inform the various steps Indonesia has

taken in response to the Atambua incident. In addition, the Foreign Minister, in New York to attend the Millennium Assembly, has been assigned to keep the Secretary-General and members of the Council continuously informed of the development of these endeavours.

20. The steps Indonesia has taken have mitigated the need for a Security Council mission. However, we are open to discuss all related issues with regard to Security Council resolution 1319 (2000). In addition, the Government also stands ready to hold periodic briefings to the Ambassadors of the Member States of the Security Council in Jakarta as well as for the Special Envoy to visit New York to up-date the Council on the developments on the ground.

IV. THE ATAMBUA INCIDENT IN THE LARGER CONTEXT OF EFFORTS TO SETTLE THE RESIDUAL PROBLEMS RELATING TO EAST TIMOR

21. In responding to the Atambua incident, one should not lose sight of the wider perspective of Indonesia - East Timor relations. For Indonesia, a successful transition process in East Timor is a vital national interest. Indeed, Indonesia's interest rests in seeing a post-UNTAET East Timor which is stable, democratic and prosperous. For the immediate term and in view of Indonesia's own resource constrains, Indonesia's focus is today on policies that are helpful to East Timor's development through arrangements that are most beneficial to East Timor, subject to Indonesia's laws and regulations. This is consistent with the spirit of the policy of the Government of Indonesia to open a new page in its relationship with East Timor, that is forward looking and based on the principle of good-neighbourliness.

22. Hence, over the past year together with UNTAET, Indonesia has reached meaningful progress in its discussions on issues such as the continuation of studies by East Timorese students in Indonesian institutions of higher learning through Indonesian as well as third party scholarships, practical legal training for East Timorese lawyers, exchange and protection of cultural artifacts, exchange of archives, assets and claims, pensions and benefits for former civil servants as well as cooperation in the field of human rights. The Office of the Attorney General of the Republic of Indonesia has also established close cooperation with the UNTAET Serious Crime Investigation Unit in investigating cases of grave human rights violations in East Timor.

23. Moreover, the incident has added further motivation to pursue this cooperative process in an even more urgent manner. At the same time, however, Indonesia is mindful of the fact that the same events remind of the need to set priorities: to address the root causes of the common challenges faced. In this regard, it is the view of the

Indonesian Government that primary among these issues is the comprehensive settlement of the East Timor refugees issue in West Timor.

V. TOWARDS COMPREHENSIVE AND LASTING SETTLEMENT OF THE QUESTION OF EAST TIMORESE REFUGEES IN WEST TIMOR

24. The unresolved issue of East Timorese refugees in West Timor is especially poignant for Indonesia. Others may fleetingly express their concern, indeed their frustration at the perceived lack of progress over the refugees issue. They may selectively highlight special issues of concern - "militia" and "security in the camps" come especially to mind. Also, they may choose to simplify; to attribute blame when circumspection would have been prudent. Indonesia can not afford such luxuries. It does not have the option to allow the issue to wane from international attention. Nor can it afford to ignore the multifaceted nature of the East Timorese refugees problem. It certainly would not involve itself in recriminations about responsibilities.

25. For Indonesia, the prolonged existence of the some 250 refugee camps/sites in West Timor has generated a multitude of problems and challenges beyond those which are humanitarian and emergency relief in nature, including security. This involves at least three dimensions. First, security within the camps, namely charges of intimidation and violence committed by armed individuals or groups against the refugee population. Second, security between the refugees at the camps and the local population in West Timor given the increasing tensions between them. Third, security across the border given allegations that the refugee camps have been used as bases or staging posts for cross border incursions by armed individuals or groups. The Atambua incident and the recent border-related incidents are cases in point.

26. Politically, the continued existence of the camps in West Timor risks further alienating the refugee population from the important political processes currently underway in East Timor and may hinder the process of reconciliation among East Timorese, especially in view of the alleged campaign of disinformation carried out by some quarters. And indeed, for Indonesia, the issue has the potential to affect its bilateral ties with friendly countries and also with international organizations.

27. Indonesia is also mindful of the economic and financial consequences. The remaining 130,000 East Timorese refugees in camps in West Timor have imposed heavy economic and financial burden not only on the Central Government, which is already overburdened by the existence of hundreds of thousands of internally displaced persons from other conflict-affected areas, but also and in particular on the Province of East Nusa Tenggara which is among the least endowed in resources among

Indonesian provinces. Such burden has also been directly felt by the local population who are already impoverished. Conversely, the return of the refugees to East Timor, many of whom are skilled in farming, small business and administration, would be essential for the future development of East Timor.

28. Above all, Indonesia is very much seized of the humanitarian catastrophe created by the prolonged existence of the refugee camps in West Timor, the frustration, the feeling of abandonment and loss of hope which are prevalent among the refugees. Indonesia is determined to immediately overcome this inhumane situation.

29. In recognizing the multifaceted challenges posed by the prolonged presence of the East Timorese refugee camps in East Timor, Indonesia is of the view that we should not lose sight of the progress achieved over the past year. The Government of Indonesia has left no stone unturned in its effort to overcome the refugees issue. Thus, the Department of Transmigration and Population, Department for Resettlement and Area Development under the coordination of the Coordinating Ministry for People's Welfare and Poverty Alleviation have worked closely with the UNHCR, World Food Programme and IOM as well as other related international agencies for the resettlement of those refugees who wish to remain in Indonesia as well as the repatriation of those who wish to return to East Timor. In addition to these programs, the Government of Indonesia has recently instituted a more focused program, namely that which relates to the "Milsas" who are TNI military and civilian personnel recruited in the past in recognition of their role as pro-integration partisans. Progress in this particular effort has been heartening.

30. As a result of these policies, of the some 285,000 East Timorese refugees in West Timor at its peak in October 1999, about 155,000 have returned leaving approximately 130,000 in West Timor. While this is less than optimum, it is also a reality which should not be overlooked. Such progress would not have been possible without the close cooperation between Indonesia, the UNHCR and other relevant international agencies.

31. Constraints for the return of the remaining refugees, although often oversimplified and reduced to questions of security in the camps, are in fact multifaceted, including the situation in East Timor itself. Indonesia is cognizant of the fact that the remaining refugees may be genuinely uncertain about the ch ice they are to make, as they have lingering doubt about their physical safety and security as well as their living sustenance if they choose to repatriate to East Timor. Many of these remaining refugees appear to have strong emotional ties with Indonesia. In view of this remaining challenge, there is an urgent need for a special, concerted and focused

efforts beyond those which have been taken to date to accelerate the comprehensive resolution of the question of East Timorese refugees in West Timor within a stringent time-frame. The Government of Indonesia is of the view that responsibility in this efforts must be judiciously shared by all concerned parties, not least the UNTAET.

32. In this connection, the Department of Foreign Affairs has undertaken a series of meetings to consult and coordinate with the relevant Government agencies, and have sought the views of concerned international agencies, in particular the UNHCR and IOM, as well as countries in order to formulate a comprehensive plan of action (CPA) for the early comprehensive resolution of the East Timorese refugees issue. The main elements of such a plan include the following:

a. Registration of the refugees, respecting the principle of freedom of choice;
b. The closing of refugee camps which are closest to the border;
c. Those refugees who choose to remain in Indonesia shall be relocated to temporary transit camps away from the border before they are permanently settled in West Timor or in other parts of Indonesia;
d. Those refugees who choose to return to East Timor should be transferred to transit camps in East Timor before they are processed to go to their final destinations in East Timor.

33. The Atambua incident clearly constitutes a short term setback to the momentum for the implementation of such a plan. At the same time, however, the incident and Security Council resolution 1319 (2000) inject a new level of urgency for the comprehensive and lasting settlement of the refugees issues through such CPA. In this connection, the Government of Indonesia has preceded to finalize a credible and realistic CPA through an intensive inter-agency discussions and consultations with the UNHCR and IOM which was last held on Friday, 15 September 2000 in Jakarta. Additional meetings are planned in the days ahead.

34. In implementing such a plan, the voluntary nature of the decision of each and every individual refugee shall be respected. In this connection, the registration of the refugees shall constitute one of the main elements of the plan. The implementation of the closing of the camps near the border in West Timor and the relocation of the refugees either to transit camps in West Timor (away from the border) or to transit camps in East Timor shall be carried out in a sensitive and humane manner, fully respecting the dignity and security of person, preceded by intensive public information campaign among the refugees.

35. Assistance of the international community in such endeavour is vital, including in the establishment of temporary transit camps in West Timor (away from the border) and the final resettlement place in Indonesia, as well as in the establishment of the transit camps in East Timor. With the closing of the camps along the border, there would be no more grounds for false accusations against Indonesia and that the international community, specifically UNTAET, would shoulder a greater responsibility of the burden in resolving this particular issue not only in words but in deeds. Specifically on the latter, the Government of Indonesia is of the view that such transit camps in East Timor, by providing a secure environment, would be of great value in facilitating the return of refugees to their final destination. Above all, it would reflect that indeed, the question of East Timorese refugees in West Timor is a matter for all of us to resolve.

36. Just as important as any of the above concerns, indeed, a prerequisite for the comprehensive settlement of the various issues confronting East Timor in the transition phase as well as in a post-UNTAET East Timor, is reconciliation. Indonesia has consistently urged all East Timorese to engage in reconciliation efforts and has encouraged UNTAET to take a more active role to promote an all-inclusive reconciliation among East Timorese. Indonesia notes in this regard the lack of progress achieved so far. It is, of course, mindful of the serious hurdles which need to be overcome. However, it is incumbent for UNTAET to persevere in this effort and Indonesia for its part stands ready to cooperate with UNTAET and to facilitate this process.

37. Without genuine reconciliation, steps such as disarming and disbanding of "militia" would only provide short term solution, curing the symptom and not the disease. The meetings held in Denpasar on 14 September 2000 initiated by Indonesia and attended by UNTAET, leaders of CNRT, including Xanana Gusmao, and UNTAS offer hope. The agenda for such reconciliation process should be left to the East Timorese parties themselves. Also at the meeting in Denpasar, UNTAET and Indonesia agreed to facilitate such reconciliation.

VI. CONCLUSION

38. Without in any way belittling this sense of outrage following the Atambua incident, it is incumbent to approach this tragic incident within the wider context of the important progress which have been achieved over the past year in dealing with residual issues arising from the transfer of authority over East Timor. The Atambua incident is an aberration. Indonesia is determined that it remains this way. The Indonesian Government has taken a number of concrete measures to deal with the

incident and in response to Security Council resolution 1319 (2000) as outlined above and will continue to implement them. These have already had positive results.

39. Indonesia is of the view that the best guarantee against a repeat of this incident is by comprehensively addressing the root causes of all issues which arises from the transfer of authority over East Timor from Indonesia to the United Nations, in particular the question of East Timorese refugees in West Timor. This is a shared responsibility. The United Nations, including the Security Council, should offer itself as part of the solution. The Indonesian Government for its part stands ready to maintain an open line of communication with the United Nations in resolving these issues in a spirit of cooperation and mutual respect.

Jakarta, 18 September 2000

United Nations S/2000/923

Security Council

Distr.: General
29 September 2000
English
Original: Arabic

Letter dated 29 September 2000 from the Chargé d'affaires a.i. of the Permanent Mission of the Libyan Arab Jamahiriya to the United Nations addressed to the President of the Security Council

I have the honour to inform you that during his visit to the Libyan Arab Jamahiriya from 20 to 22 September 2000 Mr. Abdikassim Salad Hassan, President of the Republic of Somalia, met in Sirte with Mr. Hussein Mohammed Farah Aidid, Mr. Ahmed Omar Jess and Mr. Abdikarim Ahmed Ali, the leaders of the National Somali Coalition. The meeting was held in order to complement the previous efforts and initiatives for the achievement of national reconciliation in Somalia and the maintenance of the country's independence, unity and territorial integrity and its return to the international fold, in particular the Djibouti peace initiative and the efforts of Yemen, and as a reaffirmation of the successful initiatives undertaken by the Libyan Arab Jamahiriya.

The meeting culminated with the adoption of a press communiqué, the text of which we transmit to you herewith (see annex). As we inform you of these developments, we assure you that the Libyan Arab Jamahiriya will continue its efforts for reconciliation in Somalia and the resolution of all conflicts in the African continent.

I should be grateful if you would have this letter and its annex circulated as a document of the Security Council.

(*Signed*) Isa Ayad **Babaa**
Chargé d'affaires a.i.

00-69868 (E) 191000 191000

Letter dated 29 September 2000 from the Chargé d'affaires a.i. of the Permanent Mission of the Libyan Arab Jamahiriya to the United Nations addressed to the President of the Security Council

Press communiqué issued at Sirte on 22 September 2000

Mr. Abdikassim Salad Hassan, President of the Republic of Somalia, visited the Great Socialist People's Libyan Arab Jamahiriya at the head of a high-level delegation between 20 and 22 September 2000. During his visit he met with Colonel Muammar Al-Qadhafi, Leader of the Great 1 September Revolution, and they held fraternal talks that addressed all of the issues of concern to the two countries, in particular the national reconciliation process in Somalia, the return of the country to the international fold and the need for support to be provided in order to achieve security, stability and development in Somalia and in the region in general.

President Abdikassim Salad Hassan commended the efforts undertaken by Colonel Muammar Al-Qadhafi, Leader of the Great 1 September Revolution, to promote concord and national reconciliation in Somalia.

President Abdikassim Salad Hassan and his accompanying delegation met with the eaders of the Somali National Alliance, Mr. Hussein Mohammed Farah Aidid, Mr. Ahmed Omar Jess and Mr. Abdikarim Ahmed Ali, who were present in the Great Jamahiriya at the time of the visit. Intensive talks were held by the two parties, focusing on the importance of concord and national reconciliation and on the need for concerted efforts to restore security, stability and development to Somalia. The two parties expressed an understanding of the need for dispatch in taking the necessary measures to build the executive institutions established by the conference held in Arta in the Republic of Djibouti, including measures for the formation of a government and the revival of State institutions.

For their part, the leaders of the Somali National Alliance affirmed their commitment to the principle of national reconciliation and their support for measures to achieve stability, security and development through a return to legitimacy. President Abdikassim Salad Hassan stressed that it was essential for the leaders of the Somali National Alliance to join the reconciliation process and to participate in the government and the executive organs established by the Arta conference.

President Abdikassim Salad Hassan conveyed his full support for the historic Sirte Declaration of 9 September 1999 and Somalia's commitment to the establishment of the African Union. Somalia would sign the founding statute of the Union.

President Abdikassim Salad Hassan expressed Somalia's support for the Sahel and Sahara States Grouping (SSSG) and its commitment to joining the grouping in the future.

President Abdikassim Salad Hassan and the leaders of the Somali National Alliance expressed their gratitude and appreciation to the Leader of the Great 1 September Revolution and to the Libyan people for the warm reception and generous hospitality accorded to them as well as for the major efforts being made by Colonel Muammar Al-Qadhafi, Leader of the Great 1 September Revolution, to promote national reconciliation in Somalia and advance the causes of the African continent. The President extended to him an invitation to visit Somalia at an appropriate juncture, and the Leader accepted it with gratitude.

United Nations S/2000/924

Security Council

Distr.: General
29 September 2000
English
Original: Arabic

Letter dated 28 September 2000 from the Permanent Representative of Iraq to the United Nations addressed to the President of the Security Council

On instructions from my Government, I have the honour to transmit to you herewith a letter dated 28 September 2000 from Mr. Humam Abd Al-Khaliq Abd Al-Ghafur, Minister of Culture and Information and Deputy Minister for Foreign Affairs of the Republic of Iraq, concerning the ongoing wanton aggression against Iraq by United States and British aircraft in the unlawful no-fly zones. During the period from 9 to 23 September 2000, these aircraft carried out 629 aggressive sorties, 367 of them from Saudi Arabia, 102 from Kuwait and 160 from Turkey.

The Minister urges you to intervene with the Governments of the United States, the United Kingdom and the countries that participate in this aggression, namely Saudi Arabia, Kuwait and Turkey, with a view to inducing them to halt their aggression and show respect for international law and the sovereignty of Iraq.

I should be grateful if you would have this letter and its annex circulated as a document of the Security Council.

(*Signed*) Saeed H. **Hasan**
Ambassador
Permanent Representative

00-66632 (E) 021000 031000

Annex to the letter dated 28 September 2000 from the Permanent Representative of Iraq to the United Nations addressed to the President of the Security Council

I should like to inform you that United States and British warplanes based in Saudi Arabia, Kuwait and Turkey have continued to violate the airspace of the Republic of Iraq. In the period from 9 to 23 September 2000, these aircraft carried out 629 sorties, 367 of them from Saudi Arabia, 102 from Kuwait and 160 from Turkey, as shown hereunder.

1. In the northern region 160 sorties were flown at speeds of 720 to 780 kilometres per hour and at altitudes of 6,000 to 12,000 metres, as follows:

(a) At 1030 hours on 10 September 2000 United States and British F-15, F-16, Tornado and EA-6B aircraft coming from Turkish territory penetrated Iraq's airspace in the northern region. They carried out 14 missions from Turkish territory, were supported by an AWACS command and control aircraft operating inside Turkish airspace and overflew the Dohuk, Amadiyah, Mosul, Zakho, Rawanduz, Dukan and Irbil areas. Our air defences, acting in self-defence, engaged the aircraft and, at 1330 hours, drove them off.

(b) At 1050 hours on 11 September 2000 United States and British F-15, F-16, Tornado and EA-6B aircraft coming from Turkish territory penetrated Iraq's airspace in the northern region. They carried out 16 missions from Turkish territory, were supported by an AWACS command and control aircraft operating inside Turkish airspace and overflew the Dohuk, Mosul, Irbil, Tall Afar, Ayn Zalah and Aqrah areas. Our air defences, acting in self-defence, engaged the aircraft and, at 1415 hours, drove them off.

(c) At 1100 hours on 12 September 2000 United States and British F-14, F-15, F-16, Tornado and EA-6B aircraft coming from Turkish territory penetrated Iraq's airspace in the northern region. They carried out 18 missions from Turkish territory, were supported by an AWACS command and control aircraft operating inside Turkish airspace and overflew the Dohuk, Mosul, Tall Afar, Ayn Zalah, Aqrah, Amadiyah, Zakho, Rawanduz and Irbil areas. Our air defences, acting in self-defence, engaged the aircraft and, at 1330 hours, drove them off.

(d) At 1045 hours on 13 September 2000 United States and British F-15, F-16, Tornado and EA-6B aircraft coming from Turkish territory penetrated Iraq's airspace in the northern region. They carried out 18 missions from Turkish territory, were supported by an AWACS command and control aircraft operating inside Turkish airspace and overflew the Dohuk, Mosul, Tall Afar, Aqrah, Amadiyah, Zakho and Rawanduz areas. Our air defences, acting in self-defence, engaged the aircraft and, at 1250 hours, drove them off.

(e) At 1100 hours on 14 September 2000 United States and British F-14, F-15, F-16, Tornado and EA-6B aircraft coming from Turkish territory penetrated Iraq's airspace in the northern region. They carried out 16 missions from Turkish territory, were supported by an AWACS command and control aircraft operating inside Turkish airspace and overflew the Dohuk, Tall Afar, Ayn Zalah, Aqrah, Amadiyah, Rawanduz and Irbil areas. Our air defences, acting in self-defence, engaged the aircraft and, at 1435 hours, drove them off.

(f) At 1100 hours on 18 September 2000 United States and British F-14, F-15, F-16, Tornado and EA-6B aircraft coming from Turkish territory penetrated Iraq's airspace in the northern region. They carried out 16 missions from Turkish territory, were supported by an AWACS command and control aircraft operating inside Turkish airspace and overflew the Dohuk, Mosul, Tall Afar, Ayn Zalah, Amadiyah, Zakho, Rawanduz and Irbil areas. Our air defences, acting in self-defence, engaged the aircraft and, at 1405 hours, drove them off.

(g) At 1100 hours on 19 September 2000 United States and British F-14, F-15, F-16, Tornado and EA-6B aircraft coming from Turkish territory penetrated Iraq's airspace in the northern region. They carried out 18 missions from Turkish territory, were supported by an AWACS command and control aircraft operating inside Turkish airspace and overflew the Dohuk, Mosul, Tall Afar, Amadiyah, Zakho and Irbil areas. Our air defences, acting in self-defence, engaged the aircraft and, at 1405 hours, drove them off.

(h) At 1200 hours on 20 September 2000 United States and British F-14, F-15, F-16, Tornado and EA-6B aircraft coming from Turkish territory penetrated Iraq's airspace in the northern region. They carried out 20 missions from Turkish territory, were supported by an AWACS command and control aircraft operating inside Turkish airspace and overflew the Dohuk, Aqrah, Amadiyah, Zakho, Dukan, Rawanduz and Irbil areas. Our air defences, acting in self-defence, engaged the aircraft and, at 1505 hours, drove them off.

(i) At 1230 hours on 21 September 2000 United States and British F-14, F-15, F-16, Tornado and EA-6B aircraft coming from Turkish territory penetrated Iraq's airspace in the northern region. They carried out 24 missions from Turkish territory, were supported by an AWACS command and control aircraft operating inside Turkish airspace and overflew the Dohuk, Tall Afar, Aqrah, Amadiyah, Zakho, Dukan, Rawanduz and Irbil areas. Our air defences, acting in self-defence, engaged the aircraft and, at 1420 hours, drove them off.

2. In the southern region 469 sorties were flown at speeds of 720 to 780 kilometres per hour and at altitudes of 9,000 to 13,000 metres, as follows:

(a) At 0842 hours on 9 September 2000 United States and British F-14, F-15, F-16, F-18, Tornado and EA-6B aircraft coming from Saudi and Kuwaiti territory penetrated Iraq's airspace in the southern region. They carried out 40 missions, 32 of them from Saudi territory with the support of an AWACS command and control aircraft operating inside Saudi airspace and eight from Kuwaiti territory with the support of an E-2C command and control aircraft operating inside Kuwaiti airspace. They overflew the Basra, Amarah, Samawah, Nasiriyah, Qurnah, Diwaniyah, Ukhaydir, Afak, Qal'at Salih, Jalibah and Lasaf areas. Our air defences, acting in self-defence, engaged the aircraft and, at 1330 hours, drove them off.

(b) At 1900 hours on 10 September 2000 United States and British F-14, F-15, F-16, Tornado and EA-6B aircraft coming from Saudi and Kuwaiti territory penetrated Iraq's airspace in the southern region. They carried out 26 missions, 22 of them from Saudi territory with the support of an AWACS command and control aircraft operating inside Saudi airspace and four from Kuwaiti territory with the support of an E-2C command and control aircraft operating inside Kuwaiti airspace. They overflew the Samawah, Salman, Nasiriyah, Basra, Jalibah, Shinafiyah and

Lasaf areas. Our air defences, acting in self-defence, engaged them and, at 2020 hours, drove them off.

(c) At 1430 hours on 12 September 2000 United States and British F-14, F-15, F-16, F-18, Tornado and EA-6B aircraft coming from Saudi and Kuwaiti territory penetrated Iraq's airspace in the southern region. They carried out 16 missions, 12 of them from Saudi territory with the support of an AWACS command and control aircraft operating inside Saudi airspace and four from Kuwaiti territory with the support of an E-2C command and control aircraft operating inside Kuwaiti airspace. They overflew the Artawi, Basra, Samawah, Jalibah, Nasiriyah, Qal'at Salih, Lasaf, Amarah, Shinafiyah and Salman areas. Our air defences, acting in self-defence, engaged the aircraft and, at 1535 hours, drove them off.

(d) At 1400 hours on 13 September 2000 United States and British F-14, F-15, F-16, Tornado and EA-6B aircraft coming from Saudi and Kuwaiti territory penetrated Iraq's airspace in the southern region. They carried out 16 missions, 10 of them from Saudi territory with the support of an AWACS command and control aircraft operating inside Saudi airspace and six from Kuwaiti territory with the support of an E-2C command and control aircraft operating inside Kuwaiti airspace. They overflew the Samawah, Basra, Lasaf, Salman, Amarah, Najaf, Qurnah, Nukhayb and Qal'at Sukkar areas. Our air defences, acting in self-defence, engaged them and, at 1515 hours, drove them off.

(e) At 1300 hours on 14 September 2000 United States and British F-14, F-15, F-16, F-18, Tornado and EA-6B aircraft coming from Saudi and Kuwaiti territory penetrated Iraq's airspace in the southern region. They carried out 30 missions, 18 of them from Saudi territory with the support of an AWACS command and control aircraft operating inside Saudi airspace, and 12 from Kuwaiti territory with the support of an E-2C command and control aircraft operating inside Kuwaiti airspace. They overflew the Basra, Nasiriyah, Qurnah, Amarah, Samawah, Ushbayjah, Salman, Rifa'i, Shinafiyah, Lasaf, Qal'at Sukkar, Artawi and Nukhayb areas. Our air defences, acting in self-defence, engaged them and, at 1715 hours, drove them off.

(f) At 0748 hours on 16 September 2000 United States and British F-14, F-15, F-16, Tornado and EA-6B aircraft coming from Saudi and Kuwaiti territory penetrated Iraq's airspace in the southern region. They carried out 42 missions, 32 of them from Saudi territory with the support of an AWACS command and control aircraft operating inside Saudi airspace and 10 from Kuwaiti territory with the support of an E-2C command and control aircraft operating inside Kuwaiti airspace. They overflew the Nasiriyah, Salman, Samawah, Qurnah, Basra, Lasaf, Nukhayb, Hayy, Qal'at Sukkar, Shinafiyah, Diwaniyah, Najaf and Amarah areas. Our air defences, acting in self-defence, engaged them and, at 1805 hours, drove them off.

(g) At 1200 hours on 17 September 2000 United States and British F-14, F-15, F-16, Tornado and EA-6B aircraft coming from Saudi and Kuwaiti territory penetrated Iraq's airspace in the southern region. They carried out 36 missions, 24 of them from Saudi territory with the support of an AWACS command and control aircraft operating inside Saudi airspace and 12 from Kuwaiti territory with the support of an E-2C command and control aircraft operating inside Kuwaiti airspace. They overflew the Basra, Nasiriyah, Samawah, Salman, Lasaf, Qurnah, Qal'at Sukkar, Diwaniyah, Ushbayjah and Amarah areas. Our air defences, acting in self-defence, engaged them and, at 1720 hours, drove them off.

(h) At 0815 hours on 18 September 2000 United States and British F-14, F-15, F-16, Tornado and EA-6B aircraft coming from Saudi and Kuwaiti territory penetrated Iraq's airspace in the southern region. They carried out 40 missions, 36 of them from Saudi territory with the support of an AWACS command and control aircraft operating inside Saudi airspace and four from Kuwaiti territory with the support of an E-2C command and control aircraft operating inside Kuwaiti airspace. They overflew the Basra, Nasiriyah, Samawah, Salman, Qal'at Sukkar, Diwaniyah, Qurnah, Lasaf, Shinafiyah, Rumaythah, Mashkhab, Hayy, Najaf south and Amarah areas. Our air defences, acting in self-defence, engaged them and, at 1410 hours, drove them off.

(i) At 0940 hours on 19 September 2000 United States and British F-14, F-15, F-16, F-18, Tornado and EA-6B aircraft coming from Saudi and Kuwaiti territory penetrated Iraq's airspace in the southern region. They carried out 44 missions, 30 of them from Saudi territory with the support of an AWACS command and control aircraft operating inside Saudi airspace and 14 from Kuwaiti territory with the support of an E-2C command and control aircraft operating inside Kuwaiti airspace. They overflew the Basra, Nasiriyah, Samawah, Salman, Najaf, Qurnah and Diwaniyah areas. Our air defences, acting in self-defence, engaged them and, at 1340 hours, drove them off.

(j) At 1025 hours on 20 September 2000 United States and British F-15, F-16, Tornado and EA-6B aircraft coming from Saudi and Kuwaiti territory penetrated Iraq's airspace in the southern region. They carried out 46 missions, 40 of them from Saudi territory with the support of an AWACS command and control aircraft operating inside Saudi airspace and six from Kuwaiti territory with the support of an E-2C command and control aircraft operating inside Kuwaiti airspace. They overflew the Basra, Nasiriyah, Samawah, Salman, Lasaf, Qurnah, Qal'at Sukkar, Busayyah, Shatrah, Shinafiyah, Rifa'i, Rumaythah, Mashkhab, Rahhaliyah south and Qal'at Salih areas. Our air defences, acting in self-defence, engaged them and, at 1400 hours, drove them off.

(k) At 0825 hours on 21 September 2000 United States and British F-14, F-15, F-16, F-18, Tornado and EA-6B aircraft coming from Saudi and Kuwaiti territory penetrated Iraq's airspace in the southern region. They carried out 56 missions, 44 of them from Saudi territory with the support of an AWACS command and control aircraft operating inside Saudi airspace and 12 from Kuwaiti territory with the support of an E-2C command and control aircraft operating inside Kuwaiti airspace. They overflew the Basra, Nasiriyah, Samawah, Qal'at Salih, Najaf, Qurnah, Hayy, Diwaniyah, Afak, Ukhaydir, Taqtaqanah and Amarah areas. Our air defences, acting in self-defence, engaged them and, at 1320 hours, drove them off.

(l) At 1950 hours on 22 September 2000 United States and British F-14, F-15, F-16, Tornado and EA-6B aircraft coming from Saudi and Kuwaiti territory penetrated Iraq's airspace in the southern region. They carried out 43 missions, 41 of them from Saudi territory with the support of an AWACS command and control aircraft operating inside Saudi airspace and two from Kuwaiti territory with the support of an E-2C command and control aircraft operating inside Kuwaiti airspace. They overflew the Salman, Busayyah, Artawi, Ushbayjah and Lasaf areas. Our air defences, acting in self-defence, engaged them and, at 2350 hours, drove them off.

(m) At 1105 hours on 23 September 2000 United States and British F-14, F-15, F-16, Tornado and EA-6B aircraft coming from Saudi and Kuwaiti territory

penetrated Iraq's airspace in the southern region. They carried out 34 missions, 26 of them from Saudi territory with the support of an AWACS command and control aircraft operating inside Saudi airspace and eight from Kuwaiti territory with the support of an E-2C command and control aircraft operating inside Kuwaiti airspace. They overflew the Basra, Nasiriyah, Samawah, Qal'at Sukkar, H-3, H-2, K-160, Qurnah, Salman, Rutbah, Nukhayb, Artawi, Rumaythah and Amarah areas. Our air defences, acting in self-defence, engaged them and, at 1420 hours, drove them off.

This aggression illustrates the bellicose attitude being maintained by the United States of America and the United Kingdom towards Iraq. Since 1992, it has become a fixed policy aimed at undermining the country's sovereignty, independence and territorial integrity and at the systematic and concerted destruction of Iraqi lives, infrastructure and civilian installations. It is a policy that has been affirmed in successive statements made by United States and British officials defending the measures being taken to enforce the no-fly zones.

The Government of Iraq categorically rejects the two so-called no-fly zones, which were imposed by unilateral decision of the United States of America and the United Kingdom and lack any legal basis. Iraq rejects all the consequences of this illegal decision and, in particular, the flimsy excuses and pretexts used by these countries in an attempt to justify their military aggression against our country.

The logistic support provided by Saudi Arabia, Kuwait and Turkey to the Americans and the British makes these countries key partners in the aggression being committed against Iraq, so that they bear international responsibility for actions that are deleterious to the people of Iraq.

The Government of Iraq, condemning these shameless acts of aggression, urges the Security Council to intervene with the Governments of the States concerned and prevail upon them to halt their aggression and respect the rules of international law and the sovereignty of Iraq.

(*Signed*) Humam Abd Al-Khaliq **Abd Al-Ghafur**
Deputy Minister for Foreign Affairs of the Republic of Iraq

United Nations S/2000/925

Security Council

Distr.: General
2 October 2000
English
Original: French

Letter dated 28 September 2000 from the Secretary-General addressed to the President of the Security Council

I am transmitting to you herewith for consideration, and for consideration by the members of the Security Council, a letter dated 26 September 2000 addressed to me by Judge Navanethem Pillay, President of the International Criminal Tribunal for Rwanda.

In his letter, Judge Pillay indicates that, according to the Judges of the International Criminal Tribunal for Rwanda, the Tribunal should be able, in certain situations, to compensate persons who may have been wrongfully detained, prosecuted or convicted by the Tribunal.

You will remember that, in my letter dated 26 September 2000 (S/2000/904), I drew to your attention and to the attention of the members of the Security Council, a letter dated 19 September 2000 from Judge Claude Jorda, President of the International Tribunal for the Former Yugoslavia, concerning the same proposal.

Judge Pillay notes that, according to the Judges, there are three situations in which the Tribunal should be able to award such compensation.

The first situation arises when a person has suffered punishment as a result of a final decision of the International Tribunal and that decision is subsequently reversed by the Tribunal, or a pardon is granted, because a new or newly discovered fact proves that there has been a miscarriage of justice.

The second situation arises when a person who has been detained under the Tribunal's authority is subsequently acquitted by a final decision of the Tribunal or is subsequently released following a decision to terminate the proceedings against him/her in circumstances which show conclusively that there has been a grave and manifest miscarriage of justice.

The third situation in which, according to the Judges, the Tribunal should be able to award compensation arises when a person is arrested or detained under the Tribunal's authority in a manner or in circumstances which constitute a violation of the right to liberty and security of person and when the conduct which gave rise to the violation is legally imputed to the Tribunal and thus to the United Nations.

Judge Pillay observes that, in the first and third situations, the United Nations is required, under generally accepted human rights norms, to compensate the individual who has been unlawfully convicted, arrested or detained.

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Judge Pillay also observes that in neither of these two situations could the United Nations fulfil its legal obligations simply by paying a sum of money as compensation to the individual concerned. Legal provisions must be enacted which would give the individual a specific right to compensation, determine how the compensation to be paid must be calculated and establish a procedure for this purpose which meets the essential requirements of legality and respect for law.

Judge Pillay observes that, in the second situation described in his letter, the United Nations could not be held bound under existing international law to compensate an individual who may have been unlawfully detained or prosecuted as described. He states that the Judges nevertheless believe that, given the particular circumstances in which the Tribunal operates, it is desirable that the Tribunal should be able to award compensation in such situations.

Judge Pillay notes that, for the Tribunal to be able to award compensation in each of the three situations described in his letter, the Security Council would have to amend the Statute of the International Criminal Tribunal for Rwanda to empower it to deal with questions of compensation.

Should the Security Council adopt such amendments, the General Assembly would subsequently have to approve the necessary appropriation to the Tribunal's budget.

I should be grateful if you would bring the text of this letter and its annexes to the attention of the members of the Security Council.

(*Signed*) Kofi A. **Annan**

Annex

[Original: English]

Letter dated 26 September 2000 from the President of the International Criminal Tribunal for Rwanda addressed to the Secretary-General

The Judges of the International Criminal Tribunal for Rwanda have requested me to address this letter to you explaining that they consider it desirable that the Statute of the Tribunal be amended to provide for compensation to persons wrongly prosecuted or convicted.

Neither the Statute nor the Rules of Procedure and Evidence of the Tribunal provide remedies for deprivation of liberty, consequent upon wrongful arrest, prosecution or conviction or unlawful violations of rights. The right to such remedy is embodied in various international human rights instruments. The Judges are interested in having the International Criminal Tribunal for Rwanda placed in a position to fully respect internationally recognized obligations.

During the past five years, three instances of deprivation of liberty occurred in the International Criminal Tribunal for Rwanda which caused concern for the Registrar: a wrongful arrest upon mistaken identity; the withdrawal of a prosecution against an individual who had voluntarily surrendered to the Tribunal and whose status is still being determined by the host country; and an order by the Appeal Chamber in case ICTR-97-AR72 that, on the grounds of violation of his rights during arrest and pre-trial detention, the appellant in the case was entitled to a remedy in the form of financial compensation, if he is found not guilty, and a reduced sentence, if he is convicted.

Awarding compensation to wrongly convicted persons

The right of wrongly convicted persons to receive compensation is set forth in various international human rights instruments, including article 14, paragraph 6, of the International Covenant on Civil and Political Rights. An almost identical provision to article 14, paragraph 6, is also found in article 85 of the Statute of the International Criminal Court, adopted at Rome on 17 July 1998.

Acts of the International Criminal Tribunal for Rwanda, a subsidiary organ of the Security Council, are imputable to the United Nations. Consequently, since it considers itself bound by generally accepted norms of human rights law such as article 14, paragraph 6, of the International Covenant on Civil and Political Rights, the United Nations would be under an obligation to ensure that compensation is paid to a person whose conviction by the International Criminal Tribunal for Rwanda has later been reversed.

Awarding compensation to wrongly prosecuted persons

Although article 85, paragraph 3, of the Rome Statute will enable the future International Criminal Court to award compensation in exceptional circumstances to accused who are acquitted or have the proceedings against them terminated on account of a grave and manifest miscarriage of justice, equivalent provisions do not appear in the International Covenant on Civil and Political Rights or in any other

international human rights instrument. It cannot, therefore, be said that a right of this type currently forms part of customary international law. Accordingly, the United Nations cannot be said to be under an unambiguous legal obligation to pay compensation to a victim of a miscarriage of justice in such circumstances.

Nevertheless, provisions for the compensation of an accused who has in some way been wrongly prosecuted do exist in some national systems.

In view of the circumstances under which the International Criminal Tribunal for Rwanda operates — in particular, the fact that accused persons are held in pre-trial detention for long periods — it would therefore be in the interest of the Tribunal, and of the United Nations in general, that compensation be awarded, at the discretion of the Tribunal, to accused persons who are acquitted or have the proceedings against them discontinued. It should be noted, however, that such discretion should only be exercised in exceptional circumstances where there has been a "grave and manifest" miscarriage of justice.

Awarding compensation to unlawfully detained persons

International human rights treaties guarantee to persons who may be deprived of their liberty in circumstances or in a manner that involves a violation of their rights, the right to receive compensation; see for instance article 9, paragraph 5, of the International Covenant on Civil and Political Rights. Consequently, should a person be arrested or detained on the authority of the International Criminal Tribunal for Rwanda in a manner or in circumstances that are in violation of the rights recognized in paragraphs 1 to 4 of article 9 of the Covenant and should the conduct which gave rise to that violation be such as to be deemed in law to be that of the International Criminal Tribunal for Rwanda, and so be imputable to the United Nations, the Organization would be under an international obligation to ensure that the victim of that violation was compensated.

Please note that, since the Statute does not contain any provisions conferring on the International Criminal Tribunal for Rwanda the authority to take the necessary steps to ensure the discharge of the aforementioned obligations, various possible mechanisms have been examined, in consultation with the Office of Legal Affairs, which would nonetheless enable such persons to obtain compensation. Such mechanisms include, inter alia, arbitration, ex gratia payment, resolutions of the General Assembly authorizing limited liability and amendment of the Statute of the International Criminal Tribunal for Rwanda.

In this connection, it is essential to note that the United Nations would not be able to comply with its international obligations simply by paying the individuals concerned an appropriate sum in compensation. The obligations which are codified within article 9, paragraph 5, and article 14, paragraph 6, of the International Covenant on Civil and Political Rights are not simply to ensure that persons whose cases fall within the scope of these provisions are compensated *simpliciter*, but rather to guarantee that they are vested with "an enforceable right to compensation" (in the case of article 9 (5)) and are compensated "according to the law" (in the case of article 14 (6)). It is therefore necessary, in order to discharge this obligation, that there exist rules of law, satisfying the basic requirements of legality and due process, that confer on persons wrongly prosecuted or convicted by the International Criminal Tribunal for Rwanda, as well as those who were unlawfully arrested or detained under its authority, a specific legal right to be paid compensation.

Accordingly, since the International Criminal Tribunal for Rwanda and, in particular, the Chambers, are in the best position to determine whether wrongly prosecuted or convicted persons as well as those who are unlawfully arrested or detained should receive compensation, the Judges are of the view that the Security Council should consider widening the scope of the jurisdiction of the International Criminal Tribunal for Rwanda through a statutory amendment, conferring upon it competence to deal with cases of compensation.

Given that any steps taken in this regard should closely reflect recent developments of international human rights law, it is suggested that a new article should be inserted into the Statute of the International Criminal Tribunal for Rwanda modelled on the precedent afforded by article 85 of the Rome Statute of the International Criminal Court, the text of which is attached for ease of reference (see appendix).

Finally, with a view to seeking the most appropriate amendment to the Statute of the International Criminal Tribunal for Rwanda, I would kindly ask you to transmit this letter to the President of the Security Council for his consideration and that of the members of the Council.

Since it is axiomatic that the International Criminal Tribunal for Rwanda and the International Tribunal for the Former Yugoslavia take similar approaches to this issue, I have discussed the issue of compensation with Judge Claude Jorda, President of the International Tribunal for the Former Yugoslavia, who has informed me that the Judges of that Tribunal also envisage proceeding in this manner with a view to securing the amendment to the Statute of that Tribunal and that a separate letter to this effect has been addressed to you.

Should you have any questions regarding this request, or wish to obtain further information on the right wrongly prosecuted or convicted persons as well as that of unlawfully arrested or detained persons to receive compensation, please do not hesitate to contact me.

(*Signed*) Navanethem **Pillay**
President

Appendix

Article 85 of the Rome Statute of the International Criminal Court

Compensation to an arrested or convicted person

1. Anyone who has been the victim of unlawful arrest or detention shall have an enforceable right to compensation.

2. When a person has by a final decision been convicted of a criminal offence, and when subsequently his or her conviction has been reversed on the ground that a new or newly discovered fact shows conclusively that there has been a miscarriage of justice, the person who has suffered punishment as a result of such conviction shall be compensated according to law, unless it is proved that the non-disclosure of the unknown fact in time is wholly or partly attributable to him or her.

3. In exceptional circumstances, where the Court finds conclusive facts showing that there has been a grave and manifest miscarriage of justice, it may in its discretion award compensation, according to the criteria provided in the Rules of Procedure and Evidence, to a person who has been released from detention following a final decision of acquittal or a termination of the proceedings for that reason.

United Nations S/2000/925*

Security Council

Distr.: General
6 October 2000
English
Original: French

Letter dated 28 September 2000 from the Secretary-General addressed to the President of the Security Council

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* Reissued for technical reasons.

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(*Signed*) Navanethem **Pillay**
President

Appendix

Article 85 of the Rome Statute of the International Criminal Court

Compensation to an arrested or convicted person

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United Nations A/55/434-S/2000/926

General Assembly
Security Council

Distr.: General
2 October 2000

Original: English

General Assembly
Fifty-fifth session
Agenda items 39, 67 (a), 92 (a), 94 (b) and (d) and 164

Support by the United Nations system of the efforts of Governments to promote and consolidate new or restored democracies

Maintenance of international security: prevention of the violent disintegration of States

Macroeconomic policy questions: trade and development

Sustainable development and international economic cooperation: integration of the economies in transition into the world economy; high-level dialogue on strengthening international economic cooperation for development through partnership

Measures to eliminate international terrorism

Security Council
Fifty-fifth year

Letter dated 20 September 2000 from the Permanent Representatives of Azerbaijan, Georgia, the Republic of Moldova, Ukraine and Uzbekistan to the United Nations addressed to the Secretary-General

Upon instructions from our Governments, we have the honour to transmit herewith the text of the New York Memorandum of the Presidents of the Republic of Azerbaijan, Georgia, the Republic of Moldova, Ukraine and the Republic of Uzbekistan, signed at their meeting on 6 September 2000 in New York (see annex I), as well as the text of the communiqué of that meeting (see annex II).

00-66917 (E) 161000

We should be grateful if you would have the text of the present letter, and its annexes circulated as a document of the fifty-fifth session of the General Assembly, under agenda items 39, 67 (a), 92 (a), 94 (b), 94 (d) and 164, and of the Security Council.

Eldar G. **Kouliev**
Ambassador
Permanent Representative of the Republic of Azerbaijan
to the United Nations

Peter P. **Chkheidze**
Ambassador
Permanent Representative of Georgia to the United Nations

Ion **Botnaru**
Ambassador
Permanent Representative of the Republic of Moldova
to the United Nations

Volodymyr Yu. **Yel'chenko**
Ambassador
Permanent Representative of Ukraine to the United Nations

Alisher **Vohidov**
Ambassador
Permanent Representative of the Republic of Uzbekistan
to the United Nations

Annex I to the letter dated 20 September 2000 from the Permanent Representatives of Azerbaijan, Georgia, the Republic of Moldova, Ukraine and Uzbekistan to the United Nations addressed to the Secretary-General

[Original: English and Russian]

New York Memorandum of the Presidents of the Republic of Azerbaijan, Georgia, the Republic of Moldova, Ukraine and the Republic of Uzbekistan

The Presidents of the Republic of Azerbaijan, Georgia, the Republic of Moldova, Ukraine and the Republic of Uzbekistan, hereinafter referred to as the GUUAM Group,

Taking into account the traditional relations of friendship, cooperation and mutually beneficial partnership between their countries and peoples, and *emphasizing* the aspiration for further development of these relations on the basis of the Strasbourg Communiqué and the Washington Declaration,

Reiterating their commitment to the fundamental norms and principles of international law enshrined in the Charter of the United Nations and respective documents of the Organization for Security and Cooperation in Europe, in particular the principles of sovereign equality of States, non-use of force or threat of force, territorial integrity, non-interference in the internal affairs and inviolability of borders,

Stressing the need for developing, in their countries, a civil society based on the respect for the principles of democracy, rule of law, promotion and observance of human rights and fundamental freedoms,

Considering the restoration of the historic Silk Road, which links the East and the West, as an important factor in strengthening independence, security and stability of States and cooperation among them in the region of Central and Eastern Europe, the Black Sea, the Caucasus and Central Asia in the new millennium,

Condemning as unjustifiable any illegal acts, methods and practices of terrorism, wherever and by whomsoever committed, including those that jeopardize friendly relations between States and peoples, endanger territorial integrity, security and stability of States, hamper international cooperation, result in violations of human rights and fundamental freedoms and undermine democratic foundations of society,

Recognizing that one of the most important problems that poses a serious threat to stability and security both in the entire world and in the region of the Great Historic Silk Road is a problem of aggressive separatism, and *being gravely concerned* at the protracting of the conflict settlement processes in this region, and *confirming* their commitment to the settlement of these conflicts by peaceful means on the basis of respective resolutions of the United Nations and decisions of the Organization for Security and Cooperation in Europe,

Noting the importance of integration processes and of collaboration between their States in cooperation with the European structures, including the European

Union, the Council of Europe, as well as in the framework of the Euro-Atlantic Partnership Council and NATO's "Partnership for Peace" programme,

Taking into account the urgent need to establish effective interstate — first and foremost, economic and intersectoral — relations with the view to improve the well-being of the peoples of their countries, as well as to intensify economic cooperation in the context of further integration of the GUUAM States into the system of international economic relations,

Considering particularly important unconditional application of the free trade principles on the basis of existing mechanisms of multilateral economic cooperation, which remain underutilized so far in the post-Soviet space,

Stressing the need for cooperation and concerted efforts of their States with the view to further developing the secure and effective Europe-Caucasus-Asia transport and communication corridor,

Noting the prospects of expanding, in the framework of the GUUAM Group, the humanitarian dimension on the basis of the rich spiritual and cultural heritage of the peoples of the participating States,

Have decided:

1. *To intensify* multilateral cooperation in the framework of GUUAM by giving it a multilevel character. To this end, it shall be expedient *to convene* regular summits at the level of Heads of State at least once a year, and meetings at the level of Ministers for Foreign Affairs at least twice a year;

2. *To entrust*, during the period between summits and ministerial meetings, the Committee of National Coordinators (CNC) with the task of coordinating the cooperation within the framework of GUUAM. The Committee shall hold its regular sessions on a quarterly basis and, when necessary, additional sessions upon the consent of all the parties;

3. *To consider*, among the cooperation priorities within the framework of GUUAM, the task of fostering favourable conditions conducive to economic growth and enhancing the well-being of the peoples of the participating States, promoting mutually beneficial trade relations among them on the basis of principles of free trade and close intersectoral cooperation and implementing complex multilateral programmes and projects in the field of production, commerce, energy, transport, economy, international credit and financial cooperation, border, customs and fiscal services, communications, science, technology, education and culture. To this end, direct contacts between different State bodies and departments of the respective agencies of the GUUAM Group member States shall be established;

4. *To promote* development and improvement, at different levels, of mechanisms of multilateral cooperation in the framework of GUUAM, including at the level of the executive and legislative branches, business circles, non-governmental and humanitarian organizations and mass media;

5. *To recognize* as a common top priority ensuring an effective functioning of the Europe-Caucasus-Asia transport corridor, and the need to develop its infrastructure, as well as to ensure its reliability and security;

6. *To strengthen and improve* the mechanisms of consultations and coordination of actions within the framework of international organizations, and *to*

promote actively the practice of joint statements at various levels. In this connection, *to include* the question of establishing an international anti-terrorism centre in the programme of joint actions of GUUAM States in the United Nations;

7. To convene their next summit in the year 2001.

Done at New York, on 6 September 2000, in five copies in the English and Russian languages.

(*Signed*) Heydar **Aliyev**
President of the Republic of Azerbaijan

(*Signed*) Eduard **Shevardnadze**
President of Georgia

(*Signed*) Petru **Lucinschi**
President of the Republic of Moldova

(*Signed*) Leonid **Kuchma**
President of Ukraine

(*Signed*) Islam **Karimov**
President of the Republic of Uzbekistan

Annex II to the letter dated 20 September 2000 from the Presidents of Azerbaijan, Georgia, the Republic of Moldova, Ukraine and Uzbekistan addressed to the Secretary-General

[Original: English and Russian]

Communiqué of the meeting of the Presidents of the GUUAM Group in the framework of the Millennium Summit of the United Nations

A regular meeting of the Presidents of the Republic of Azerbaijan, Georgia, the Republic of Moldova, Ukraine and the Republic of Uzbekistan, hereinafter referred to as the GUUAM Group, was held in the framework of the Millennium Summit of the United Nations.

As an outcome of the meeting, the Presidents of the States of the GUUAM Group adopted the New York Memorandum, in which the parties agreed to intensify multilateral cooperation within the GUUAM framework by giving it a multilevel character, and adopted respective decisions.

Among major cooperation priorities within the GUUAM framework, the Head of States envisaged fostering favourable conditions conducive to economic growth, improving the well-being of the peoples of the participating States, further developing a safe and efficient Europe-Caucasus-Asia transport and communication corridor, as well as intensifying mutually beneficial trade relations among them on the basis of principles of free trade. To this end, the parties decided to undertake efforts with a view to establishing a free trade zone within the GUUAM.

The Presidents of the GUUAM Group expressed their grave concern at the protracting of the conflict settlement processes in the region and confirmed their commitment to the resolution of these conflicts by peaceful means on the basis of universally accepted principles of international law, resolutions and decisions of the United Nations and the Organization for Security and Cooperation in Europe.

The Presidents strongly condemned aggressive separatism, terrorism and other illegal acts that jeopardize friendly relations between States and peoples, endanger territorial integrity, security and stability of States, hamper international cooperation, result in violations of human rights and fundamental freedoms and undermine democratic foundations of society.

The parties expressed their support for the development of their cooperation within the framework of international organizations, forums, economic and trade blocs, with the view to more active participation in the global political and economic processes.

The Heads of State of the GUUAM Group express their confidence that further cooperation within the framework of the Group on the basis of the Strasbourg Communiqué, the Washington Declaration and the New York Memorandum will contribute to the maintenance of peace and security in their region and in adjacent areas, and full realization of the purposes and principles of the United Nations. The Presidents noted with satisfaction that the Millennium Summit reconfirmed the central role of the United Nations in the global processes and expressed their hope that the significance of the United Nations in settling major problems of the humakind will be increased.